

**REMARKS****Summary of the Office Action**

In the Office Action, claims 8-12 are allowed.

Claims 1, 6, 7, 13, and 17 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2005/0145448 to *Watanabe et al.* ("*Watanabe*").

Claims 3-5 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Summary of the Response to the Office Action**

Applicants amend claims 1, 3-7, and 13-17 and submit they are distinguishable over *Watanabe*. Claims 18 and 19 are withdrawn, and claim 2 is cancelled. Claims 8-12 are allowed. Applicants respectfully request reconsideration of pending claims 1 and 3-17.

**All Subject Matter Complies with 35 U.S.C. § 102(b)**

Claims 1, 6, 7, 13, and 17 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Watanabe*. Applicants respectfully traverse the rejection for the following reasons.

*Watanabe* discloses an electric disc brake apparatus for producing a braking force by torque from a motor, and additionally having a parking brake function. See Figs. 9-10 and page 1, ¶ [0002] of *Watanabe*. Applicants respectfully submit that the Office Action has not established that *Watanabe* anticipates each and every feature of Applicants' claimed invention and that all rejections under 35 U.S.C. § 102(e) should be withdrawn.

Applicants respectfully submit that *Watanabe* does not disclose, teach or suggest "[a] hand brake operating apparatus," as recited in the preamble of newly amended independent

claims 1, 6, and 13. M.P.E.P. § 2111.02 states that "[i]f the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999).

Applicants respectfully submit that the preamble of claims 1, 6, and 13 recites limitations that are necessary to give life, meaning, and vitality to the claim. For example, the recited structure in the preamble is essential to an understanding that the operation of the brake apparatus in the present invention is initiated by a hand. The preamble limits claims 1 and 3-17 and recites features not taught or suggested in *Watanabe*. Therefore, Applicants respectfully submit that *Watanabe* does not disclose at least these features of the present invention, and thus cannot anticipate the invention recited in claims 1, 6, and 13.

Furthermore, Applicants respectfully submit that *Watanabe* does not disclose at least the features of "an operating portion, for operating the release apparatus, provided at an arm extended to a position where it can be *gripped* along with the operating lever in operating the operating lever to operate in the predetermined direction," as recited in claim 6 of the present invention. Emphasis added.

Applicants respectfully submit that *Watanabe* does not disclose an operating lever that is extended to a position where it can be gripped by hand by an operator. That is, *Watanabe* discloses a parking brake locking mechanism 16 that operates when the electric brake is not being applied. The engaging claw 54' in *Watanabe* is pivotally attached in its middle to the caliper main body 10 by using a pin 70. See ¶ [0060-63] of *Watanabe*. As such, the engaging

claw 54' of *Watanabe* or so-called operating lever cannot be “gripped” by anyone in order to operate the operating lever in the predetermined direction, as recited in claim 6 of the present application. No one could possibly grip or access the engaging claw 54' or so-called operating lever of the electric brake caliper of *Watanabe* to perform a braking operation on a moving vehicle. Braking can only be accomplished via the electric braking system of *Watanabe*. Because *Watanabe* does not disclose the “gripped” feature recited in claim 6, it cannot anticipate the invention recited in claim 6.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(e) should be withdrawn because *Watanabe* does not teach or suggest each feature of newly amended independent claims 1, 6, and 13 as demonstrated above.

Additionally, Applicants respectfully submit that dependent claims 7 and 17 are also allowable insofar as they recite the patentable combinations of features recited in claims 6 and 13, as well as reciting additional features that further distinguish over the applied prior art.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the Response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By: 

David E. Connor  
Reg. No. 59,868

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**CUSTOMER NO.: 009629**

**MORGAN, LEWIS & BOCKIUS LLP**

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Tel: 202-739-3000

Fax: 202-739-3001